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SENATE BILL 2869 By
Springer

HOUSE BILL 2979
By Jackson

AN ACT to amend Tennessee Code Annotated, Title 49, relative to
postsecondary and higher education.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-7-120(a)(2), is amended by
deleting the current language in its entirety and substituting the following:

(2) "Proprietary information" means

(A) Any information used directly or indirectly in the business of any
person or entity, which gives such person or entity an advantage or an
opportunity to obtain an advantage over competitors who do not know or use the
information, and which is disclosed by the person or entity to the public higher
education institution, and; or

(B) Any information developed, generated, ascertained, or discovered
by the public higher education institution under terms of a contract for the
development thereof which recognizes the proprietary interest of the person or
entity in the information.

SECTION 2. Tennessee Code Annotated, Section 49-7-120(a)(3), is amended by
deleting the current language in its entirety and substituting the following:

(3) “Sponsored research or service” means any research, analysis, or service conducted pursuant to grants or contracts between the public higher institution and a person or entity. It does not include research, analysis, or service conducted under an agreement with other agencies of the state of Tennessee, unless such research, analysis, or service is a subcontract to a contract with a person or entity; and

SECTION 3. Tennessee Code Annotated, Section 49-7-120(a)(4), is amended by deleting the current language in its entirety and substituting the following:

(4) “Trade secrets” means any information, knowledge, items, or processes used directly or indirectly in the business of a person or entity, and which give the person or entity an opportunity to obtain an advantage over competitors who do not know or use them.

SECTION 4. Tennessee Code Annotated, Section 49-7-120(b), is amended by deleting the current language in its entirety and substituting the following:

(b) The following records or materials, regardless of physical form or characteristics, received, developed, generated, ascertained, or discovered during the course of sponsored research or service conducted by a public higher education institution shall not be open for public inspection:

- (1) patentable material or potentially patentable material;
- (2) proprietary information;
- (3) trade secrets or potential trade secrets, including without limitation manufacturing and production methods, processes, materials, and associated costs;
- (4) business transactions, commercial, or financial information about or belonging to research subjects or sponsors;
- (5) summaries or descriptions of such research or service, unless released by the sponsor; and

(6) personally identifiable data or information.

SECTION 5. Tennessee Code Annotated, Section 49-7-120(c), is amended by deleting subsection (c) in its entirety and redesignating the subsequent subsections accordingly.

SECTION 6. Tennessee Code Annotated, Section 49-7-120(d), is amended by deleting the current language in its entirety and substituting the following as the appropriately redesignated subsection:

(___) Nothing in this section shall prohibit voluntary disclosure of the records or materials by the sponsor or by the public higher education institution, with the consent of the sponsor.

SECTION 7. Tennessee Code Annotated, Section 49-7-120(e), is amended by deleting the current language in its entirety and substituting the following as the appropriately redesignated subsection:

(___) The public higher education institution shall make available, upon request by a citizen of Tennessee, the titles of sponsored research projects and the amounts and sources of funding for such projects.

SECTION 8. Tennessee Code Annotated, Section 49-7-120(f), is amended by deleting subsection (f) in its entirety and redesignating the subsequent subsection.

SECTION 9. Tennessee Code Annotated, Section 49-7-120(g), is amended by deleting the current language in its entirety and substituting the following as the appropriately redesignated subsection:

(___) A public higher education institution may keep confidential any information not related to sponsored research or service, with the exception of data from human subject research, the disclosure of which could affect the conduct or outcome of the research, the ability of the public higher education institution to patent or copyright the research, or any other proprietary rights any person or entity might have in the research or the results of the research, including without limitation proprietary

information and trade secrets received from a person or entity cooperating in the research, research protocols, and research notes, data, results, or other unpublished writing about the research or service.

SECTION 10. This act shall take effect upon becoming a law, the public welfare requiring it.